IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2215 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

VARJANGBHAI DESHABHAI - Petitioner(s)

Versus

GULABRAM RANARAI JAT & 2 - Respondent(s)

==========

Appearance :

MR JV MEHTA for Petitioner(s) : 1,
MR YS MANKAD for Respondent(s) : 1, 3,
NOTICE SERVED for Respondent(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 15/09/2005

ORAL JUDGMENT

1. The petitioner by way of this petition has prayed to quash and set aside the impugned order dated 24th July, 1992 in Claim case No. 9/84 passed by the Motor Accident Claims Tribunal, Rajkot.

2. I have heard the learned counsel for the

parties. Having perused the materials produced on record, it transpires that the Tribunal without adjudicating the matter on merits has dismissed the application of the petitioner on the ground of want of prosecution. However, the Tribunal ought to have considered that the claim of the petitioner was nominal wherein neither oral evidence is required nor the presence of the petitioner is needed. Thus, the impugned order passed by the Tribunal bad in law and is required to be quashed and set aside.

3. In the premises aforesaid, the petition is allowed. The order dated 24th July, 1992 in Claim case No. 9/84 passed by the Motor Accident Claims Tribunal, Rajkot is quashed and set aside. Since the claim petition is of the year 1984, the Tribunal is directed to hear and dispose of the claim petition no. 8/84, within a period of three months from the date of receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/